

Message Text

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PAGE 01 BOGOTA 11968 232008Z

ACTION EB-08

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FM AMEMBASSY BOGOTA

TO SECSTATE WASHDC NIACT IMMEDIATE 5414

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EO 11652: NA

TAGS: EAIR, CO

SUBJ: CIVAIR: TEXT OF DRAFT MEMORANDUM OF FUEL PRICES

REF: STATE 303928, GIBSON/GRIFFITHS TELCON OF DEC 22, 1977

1. FOLLOWING IS EMBASSY TRANSLATION OF MEMORANDUM OF UNDER-
STANDING ON FUEL PRICES PREPARED BY FOREIGN MINISTRY:

MEMORANDUM OF UNDERSTANDING

DURING THE CONVERSATIONS HELD AT THE MINISTRY OF FOREIGN RELATIONS OF COLOMBIA ON DECEMBER 19 AND 20, 1977, BETWEEN THE REPRESENTATIVE OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND OFFICIALS OF THE GOVERNMENT OF COLOMBIA, ACCOMPANIED BY THEIR RESPECTIVE ADVISORS FROM THE PUBLIC AND PRIVATE SECTORS, THE SUBJECT OF THE PRICE OF AVIATION GASOLINE FOR THE AMERICAN COMPANIES WHICH OPERATE IN COLOMBIA, AND MORE SPECIFICALLY REGARDING THE SITUATION OF BRANIFF INTERNATIONAL, WAS DISCUSSED.

THE GOVERNMENT OF THE UNITED STATES, INTERPRETING ARTICLES 7 AND 8 OF THE AIR TRANSPORT AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF COLOMBIA, SIGNED ON OCTOBER 24, 1956, ON SEVERAL OCCASIONS
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PAGE 02 BOGOTA 11968 232008Z

ALLEGED THE EXISTENCE OF DISCRIMINATION IN JET FUEL PRICE IN COLOMBIA WHICH WAS AFFECTING THE COMMERCIAL OPERATIONS OF THE AFOREMENTIONED NORTH AMERICAN AIRLINE.

THE GOVERNMENT OF COLOMBIA, DESIROUS OF ELIMINATING IN PRACTICE ANY DISCREPANCY WHICH COULD AFFECT AVIATION RELATIONS BETWEEN THE TWO COUNTRIES, REQUESTED THE COLLABORATION OF THE COMPETENT

COLOMBIAN ENTITIES IN THE PUBLIC SECTOR AND OF THE PRIVATE AIR TRANSPORT COMPANIES OFFERING REGULAR SERVICE TO THE UNITED STATES, IN ORDER TO CLARIFY THE REFERENCED SITUATION.

AS A CONSEQUENCE, A CONSULTATIVE GROUP COMPOSED OF REPRESENTATIVES OF THE GOVERNMENT OF THE UNITED STATES AND THE GOVERNMENT OF COLOMBIA MET IN BOGOTA ON MARCH 14, 1977, IN ORDER TO ANALYZE, AMONG OTHER THINGS, THE SITUATION ARISING FROM THE PRICE DIFFERENTIAL.

BEGINNING AT THAT TIME, VARIOUS STUDIES WERE MADE, THE RESULTS OF WHICH WERE COMMUNICATED TO THE GOVERNMENT OF THE UNITED STATES OF AMERICA IN NOTES NO. 4609 OF SEPTEMBER 20 AND NO. 5778 OF DECEMBER 14 OF THIS YEAR.

THE FOREGOING PROCESS RESULTED IN THE FOLLOWING FORMULA OF AGREEMENT:

A) THE COMPETENT COLOMBIAN AUTHORITIES WILL SET A REFERENCE PRICE OF 45 CENTS A GALLON FOR THE UNITED STATES COMPANY AND 43.43 CENTS A GALLON FOR OPERATIONS TO THE UNITED STATES UNDERTAKEN BY THE COLOMBIAN COMPANIES, TAKING INTO CONSIDERATION THE ESTIMATED CONSUMPTION OF JET FUEL DURING 1978 BY THE COLOMBIAN AIR TRANSPORT COMPANIES (AVIANCA: 15,500,000 GALLONS AND AEROCONDOR: 5,362,000 GALLONS) AND BY THE UNITED STATES COMPANY (BRANIFF: 4,100,000 GALLONS) ON ROUTES TO AND FROM COLOMBIA LIMITED OFFICIAL USE

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PAGE 03 BOGOTA 11968 232008Z

AND THE UNITED STATES.

B) IN ORDER TO ARRIVE AT THE REFERENCE PRICE THE ABOVE MENTIONED AIRLINES, WITH THE PRIOR AUTHORIZATION OF THE EMPRESA COLOMBIANA DE PETROLEOS (ECOPETROL), WILL ENTER INTO CONTRACTS WITH THEIR FUEL DISTRIBUTORS IN ACCORDANCE WITH THE FOLLOWING PRINCIPLES:

1) THE COLOMBIAN COMPANIES WILL PAY A SURCHARGE ON CONSUMPTION OF JET FUEL IN COLOMBIA FOR FLIGHTS TO THE UNITED STATES.

2) THE NORTH AMERICAN COMPANY WILL MAKE A DEPOSIT IN COLOMBIAN PESOS, FOR A PERIOD OF ONE YEAR, EQUIVALENT TO THE VALUE OF THE CONSUMPTION OF JET FUEL FOR ONE QUARTER. SUCH A DEPOSIT SHALL BE MADE ON JANUARY 1, 1978, AND IN THE EVENT THAT IT IS NOT MADE ON THAT DATE, THEN IT SHALL BE MADE BY APRIL 1 AT THE LATEST, WITH THE INTERESTED INCOME FOR THE FIRST QUARTER PAID IN ADVANCE. THE AMOUNT OF THE DEPOSIT WILL BE CALCULATED ON THE BASIS OF THE OFFICIAL EXCHANGE RATE IN EXISTENCE ON JANUARY 1, 1978.

C) ANY INCREASE IN THE PRICE IN COLOMBIA OF INTERNATIONAL JET FUEL OCCURRING DURING THE VALIDITY OF THIS AGREEMENT WILL BE APPLIED EQUALLY TO THE AIRLINES OF BOTH COUNTRIES.

D) THE AGREEMENT BETWEEN THE TWO GOVERNMENTS AS WELL AS THE ARRANGEMENTS MADE FOR THE SUPPLY OF FUEL WILL ENTER INTO EFFECT ON JANUARY 1, 1978, AND WILL REMAIN EFFECTIVE UNTIL DECEMBER 31 OF THE SAME YEAR.

E) THE GOVERNMENT OF COLOMBIA AND THE GOVERNMENT OF THE UNITED STATES WILL REVISED THE PRESENT AGREEMENT WHENEVER ONE OF THE FOLLOWING SITUATIONS OCCURS:

1) WHEN THE INCREASE IN THE PRICE OF INTERNATIONAL FUEL AFFECTS ONLY THE COLOMBIAN COMPANIES.

2) WHEN THERE IS AN INCREASE OF TEN PERCENT (10) OR MORE IN THE LIMITED OFFICIAL USE

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PAGE 04 BOGOTA 11968 232008Z

ESTIMATED CONSUMPTION OF THE NORTH AMERICAN COMPANY AS SET FORTH IN PARAGRAPH A).

3. WHEN A NEW COMPANY IS AUTHORIZED TO PROVIDE AIR SERVICES BETWEEN THE TWO COUNTRIES, IN ACCORDANCE WITH THE 1956 AGREEMENT.

2. REQUEST DEPARTMENT'S COMMENTS SOONEST. MEMORANDUM WILL BE SIGNED BY FOREIGN MINISTER.
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